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| OBERLY, VAN HONG |

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* LORRAINE M. HERGER, NEAL M. KELLER,
MATTHEW A. McCARTHY, and CLIFFORD A. PICKOVER

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Appeal 2015-006995
Application 13/621,131
Technology Center 2100

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Before ROBERT E. NAPPI, KALYAN K. DESHPANDE, and
DAVID M. KOHUT *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1–8, 10–18, and 20, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

The invention is directed to a system for listing a service in a service catalog. Spec. ¶ 5.

## CLAIMED SUBJECT MATTER

Claim 1 is illustrative of the invention and reproduced below:

1. A system for listing services in a service catalog, the system comprising:

a server including a computer processor, the server configured to:

receive first feedback about a service not published in the service catalog and not created, the first feedback about the service being used to determine a first score for the service, the first feedback includes implicit feedback;

identify and group same service requests as the service not published in the service catalog and not created;

determine whether the first score for the service exceeds a first threshold;

if the first score for the service exceeds the first threshold, list the service as a published service in the service catalog;

receive second feedback about the published service, the second feedback about the published service being used to determine a second score for the service;

determine whether the second score for the service exceeds a second threshold; and

if the score for the service exceeds the second threshold, send a signal to a service actualization unit to create the service.

REFERENCES AND REJECTIONS AT ISSUE[1]

The Examiner rejected claims 1–8 and 11–18 under 35 U.S.C. § 103(a) as being unpatentable over Hadar (US 2011/0231229 A1; publ. Sept. 22, 2011), Chakrabarti (US 2012/0078747 A1; publ. Mar. 29, 2012), and Powell (US 2010/0114961 A1; publ. May 6, 2010). Final Act. 6–13; Ans. 4–11.

The Examiner rejected claims 10 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Hadar, Chakrabarti, Powell, and Bell (US 2007/0220510 A1; Sept. 20, 2007). Final Act. 13–15; Ans. 12–13.

The Examiner provisionally rejected claims 1–8, 10–18, and 20 under non-statutory obviousness-type double patenting over claims 1–10 of co-pending Application No. 13/599,874. Final Act. 5; Ans. 3.

ISSUES

Did the Examiner err in finding the combination of Hadar, Chakrabarti, and Powell teach a system for "receiv[ing] first feedback about a service not published in the service catalog and not created," as recited in independent claim 1?

Did the Examiner err in finding the combination of Hadar, Chakrabarti, and Powell teach "identify[ing] and group[ing] same service requests as the service not published in the service catalog and not created," as recited in independent claim 1?

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[1] Throughout this Opinion we refer to the Appellants' Appeal Brief, filed February 2, 2015 ("App. Br."), Reply Brief, filed July 21, 2015 ("Reply Br."), the Final Office Action, mailed September 30, 2014 ("Final Act."), and the Examiner's Answer, mailed on May 21, 2015 ("Ans.").

Did the Examiner err by providing insufficient rationale to combine the teachings of Hadar and Powell?

## ANALYSIS

### *35 U.S.C. § 103(a) Rejections*

We have reviewed Appellants' arguments in the Briefs, the Examiner's rejections and the Examiner's response to Appellants' arguments. Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 1–8, 10–18, and 20 under 35 U.S.C. § 103(a).

Independent claim 1 recites a system for "receiv[ing] first feedback about a service not published in the service catalog and not created."

Appellants argue that the Examiner's rejection of independent claim 1 is in error because Powell fails to teach receiving feedback about a service that is not created. App. Br. 9–10; Reply Br. 3–4.

We disagree with Appellants. The Examiner finds that Hadar's system receives quality metrics for potential services, which are not published in a catalog, teaches the claimed receiving feedback about a service not published in a service catalog. Ans. 5 (citing Hadar ¶ 24). Further, the Examiner finds Powell's disclosure of pitching unimplemented innovation teaches services that have not been created. Ans. 14 (citing Powell ¶ 76). In combining the teachings of Hadar and Powell, the Examiner finds that it would have been obvious to one of ordinary skill in the art at the time of Appellants' invention to modify Hadar's system so that Powell's services not yet created may be securely disclosed along with those created services that are not published. Ans. 6–7, 14–16 (citing Hadar ¶ 8). As such, the Examiner relies on the combination of Hadar and Powell to

teach receiving feedback about a service that is not created. Thus, we do not find Appellants' arguments directed to the first issue persuasive, because the Examiner does not rely on Powell alone to teach the disputed limitation.

Independent claim 1 further recites "identify[ing] and group[ing] same service requests as the service not published in the service catalog and not created."

Appellants argue that the Examiner's rejection of independent claim 1 is in error because Chakrabarti fails to teach identifying and grouping service requests for a service that has not been published in the service catalog and is not created. App. Br. 10–12; Reply Br. 5–6. Appellants contend that instead of teaching the disputed limitation, Chakrabarti teaches rules to generate personalized recommendations and providing access to a catalog of items. App. Br. 10–12 (citing Chakrabarti ¶¶ 37, 65); Reply Br. 5–6. We do not agree. The Examiner finds that Chakrabarti teaches arranging items within a database in a hierarchical browse structure, which teaches the claimed identifying service requests. Further the Examiner finds that Chakrabarti teaches grouping items for recommendation, which teaches the claimed grouping service requests. Ans. 6, 14, 15 (citing Chakrabarti ¶¶ 37, 65). Based upon these findings the Examiner considers that it would have been obvious to identify and group the requests for services that have not been published and are not created as taught in Hadar and Powell. *Id.* Accordingly, we do not find Appellants' argument directed to the second issue persuasive because it does not address the Examiner's specific findings based upon the combination of Hadar, Chakrabarti, and Powell.

Additionally, Appellants argue the Examiner has provided insufficient rationale to combine the teachings of Hadar and Powell because the "alleged

benefit" of securely disclosing potentially valuable ideas "is not achieved by the proposed modification of the prior art" with ideas of services not yet created. App. Br. 13; Reply Br. 4–5.

We do not find Appellants' argument persuasive. Here, the Examiner's reasoning to combine Powell's uncreated services with the system of Hadar is so that the uncreated services may be securely disclosed to prospective customers. *See* Final Act. 8 (citing Hadar ¶ 8); Ans. 15–16. As such, the Examiner relies upon Powell to teach yet uncreated services — another source of services beyond the published and not published, but created, services taught in Hadar — about which to receive feedback through their secure disclosure. *See* Hadar ¶ 8. We find sufficient evidence in Hadar to support the Examiner's rationale for the proposed combination.

Appellants also argue that claims 2–8, 10–18, and 20 are patentable for the same reasons as independent claim 1. App. Br. 13–14. We are not persuaded by these arguments because they involve the same issues addressed above with respect to independent claim 1. Accordingly, we sustain the Examiner's rejections of claims 2–8, 10–18, and 20.

*Non-statutory Obviousness-type Double Patenting Rejection*

The Examiner's provisional non-statutory obviousness-type double patenting rejection of claims 1–8, 10–18, and 20 over Application No. 13/599,874 is moot in view of the abandonment of this application.[2]

[2] Application No. 13/599,874 was abandoned on July 2, 2015.

DECISION

We sustain the Examiner's rejections of claims 1–8, 10–18, and 20 under 35 U.S.C. § 103(a).

We do not reach the rejection of claims 1–8, 10–18, and 20 under non-statutory obviousness-type double patenting over Application No. 13/599,874.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED